

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF UTAH, IN AND FOR UTAH COUNTY.

PROVO RESERVOIR COMPANY,
a Corporation,
Plaintiff,

vs.

PROVO CITY, A Municipal
Corporation, et al,
Defendants.

No. 2888 Civil.

All of the parties to this action being duly represented by their respective counsel, having entered into a stipulation this day, that the court make the following orders in this cause, it is therefore ordered by the Court:

1. That T. F. Wentz, of Provo, Utah, be, and is hereby appointed Water Commissioner in this cause for the Provo River water system, which includes all of the parties to this action and all of their claims and rights in and to the waters of Provo River and its tributaries; his services as such commissioner to begin at once and to continue until the 31st day of October, 1917, unless otherwise ordered by the court, at which time he shall file his report with the clerk of this court, but said report shall not be binding upon any of the litigants in this case.

It is further ordered that his compensation for said services shall be the sum of Two Hundred (\$200.00) Dollars per month, together with reasonable allowance for office rent, stationery, postage, telephone service and actual and necessary traveling expenses; said compensation to be paid monthly as the service is rendered.

2. It is further ordered that the court may appoint such assistants to said commissioner as may be necessary, and as to the time of making said appointments and the persons to be appointed, the said commissioner may make recommendations for the consideration of the court; that said assistants shall be paid such compensation as shall be fixed by the court, and shall be paid in the same manner as herein provided for the compensation

of said commissioner; the employment of said assistants to continue until the 15th day of September, 1917, unless the court otherwise orders.

3. It is further ordered that the commissioner and deputy commissioners be paid by the clerk of this court in Utah County, from money to be deposited with said clerk by the respective parties for that purpose, and that the basis of the assessment to be made against the respective parties be the quantity of water diverted by the several water users; provided, the court shall determine what proportion of the total expense shall be paid by the power companies.

That in the event some extraordinary or additional expense be incurred, as shown by the report of the commissioner, occasioned by any party to this action, that the court may equitably fix such proportion of the expense in excess of the other expenses to that particular party.

4. It is further ordered that suitable measuring gates shall be forthwith constructed by parties not already provided with adequate devices, at their own expense, but under the supervision of the said water commissioner.

5. It is further ordered that what is known as the high waters of Provo River in Wasatch County and Summit County, are all the waters of said river in excess of the quantities distributed under a decree of this court known as the Fulton decree, exclusive of the waters of the Ontario Drain Tunnel, the Weber River and the reservoirs of all parties, and other sources which may have been added to the flow of the river.

It is further ordered that during such period of high water the parties to this suit using the waters of Provo River in Wasatch County and Summit County, and including the plaintiff in Utah County, shall be permitted to use the same pro rata according to the number of acres irrigated by each.

6. It is further ordered that whenever the said high waters are exhausted in said Wasatch County and Summit County, the users of said waters, parties hereto, shall thereafter take and use under said Fulton decree, and in accordance with the terms thereof.

7. It is further ordered that in the event, however, that it should be determined by the water commissioner, upon the complaint of any party to this action using water under the said Fulton decree, that he is not receiving sufficient water for his reasonable necessities under said decree, then the water commissioner is authorized and it shall be his duty to take from the plaintiff such quantity of its high water in the said river in said Wasatch or Summit County as may be necessary to supply such deficiency; provided, any party who is dissatisfied with the distribution made by the water commissioner, may appeal to the court from the decision of said commissioner.

8. It is further ordered that whenever the natural flow of the waters of Provo River shall recede in volume to a quantity not exceeding 17,960 cubic feet per minute of time, measured at the measuring gates of the parties using water in Utah County under former decrees of this court, said flow of 17,960 feet per minute not to include the water which plaintiff has turned into said river from the Ontario Drain Tunnel, from the Weber River, or from the plaintiff's reservoir or other sources, then the plaintiff shall cease to use any of said waters, except such as has been heretofore decreed by this Court and succeeded to by the plaintiff herein; provided, that it is distinctly understood that none of the orders herein set forth shall affect the plaintiff's right to use at all times the waters derived from the Ontario Drain Tunnel, its reservoirs, the Weber River, or any other source that the plaintiff shall have added to said river.

In the event, however, that it should be determined by the water commissioner, upon complaint of any party to this action using water under said last named decrees, that he is not receiving sufficient water for his reasonable necessities, then the water commissioner is authorized and it shall be his duty to take, first, the excess, if any, from other primary water users under said decrees to supply such deficiency, and if no excess is had by said primary water users, then it shall be his duty to take from the plaintiff such quantity of its high water as may be necessary to supply such deficiency; provided, any party who is

dissatisfied with the distribution made by the water commissioner, may appeal to the court from the decision of said commissioner.

9. It is further ordered that four per cent of the water turned over the Wasatch Company's dam in Wasatch County by the plaintiff be deducted; and that the plaintiff be allowed two second feet at the head of its canal, to represent the water it owns coming from the Wright Estate and the Round Valley Creek and Springs. Provided, that said Wright Estate water and the Round Valley Creek and spring water shall not be used at two or more places at the same time.

10. It is further ordered that John D. Dixon shall continue to use the water which has heretofore been decreed to him and Caleb Tanner, as he used it in 1914, it being understood that the amount which was turned to him was two and one-half cubic feet per second.

11. It is further ordered that Isaac R. Baum, who purchased from Henry Walker ten shares of water right decreed to said Walker in what is known as the Fulton decree, be permitted to use said water right on his land located below the Wasatch Dam, where he has been using it for a number of years last past; ten per cent of said water to be deducted from said right on account of change of place of diversion.

12. In respect to the rights of the following named parties, Pioneer Irrigation Company, T. W. Allen, J. W. Allen, A. T. Allen, Samuel McAfee, J. H. Murdock and John Ritchie, who take water from the Provo River above the Wright Ranch near Charleston and below the Midway Dam, and which rights have never been determined by decree of any court, it is ordered that said parties shall use the water in quantities as heretofore, as nearly as may be, subject to the right of the commissioner to require said parties to irrigate on turns or in succession, so that the amount may be regular as to times of use, and subject to the further right of the commissioner to determine the amount reasonably required by said parties for the beneficial irrigation of the lands under irrigation by them.

And the order made as to the last named parties shall also apply, as to the right of the commissioner to regulate, to all other water users whose rights have not been determined by decree of court, who divert water at points between what is known as the Wright Ranch and the dam of the Wasatch Irrigation Company in Wasatch County; and that the water used heretofore by L. L. Donnan at Upper Falls shall be used as heretofore, subject to the right of the commissioner to determine the amount reasonably required by the said Donnan.

13. It is further ordered that the commissioner shall have authority, under the order of the court, to withhold the water from any party who neglects or refuses to pay his proportion of the expenses of the commissioner and his assistants, after five days' notice given by the clerk of the court in Utah County of the amount due from such party.

14. It is further ordered that the commissioner and his assistants shall not be required to give bond, but that they shall take the oath required by law, and that they be deemed officers of the court.

15. It is further ordered that the foregoing orders based upon the stipulations, as aforesaid, are temporary only, and shall expire by their own limitations at the end of the year 1917, and no stipulation upon which these orders are based shall prejudice the rights of any of the parties to this action after the year 1917.

Done in open court this 12th day of April, 1917.



Judge, Pro Tem.

IN DIST. COURT
UTAH CO., UTAH.

* FILED *

APR 18 1917

L. H. Pearson Clerk.

C. Woods Deputy.